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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SHONNA COUNTER,

12 Plaintiff,

13 vs.

14 ASH HOP II INC.; ANDREW  
15 ENTERPRISES, LLC; and DOES 1-10,

16 Defendants.

17 Case No.:

18 **COMPLAINT FOR:**

19 DENIAL OF CIVIL RIGHTS AND  
20 ACCESS TO PUBLIC FACILITIES  
21 TO PHYSICALLY DISABLED  
22 PERSONS IN VIOLATION OF THE  
23 AMERICANS WITH DISABILITIES  
24 ACT OF 1990, (42 U.S.C. §12101, *et*  
25 *seq.*) AND THE UNRUH CIVIL  
26 RIGHTS ACT, (CALIFORNIA CIVIL  
27 CODE §51, *et seq.*)

28 **DEMAND FOR JURY TRIAL**

*“[T]he continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous.”* 42 U.S.C. §12101(a)(8).

*“It is the policy of this state to encourage and enable individuals with a disability to participate fully in the social and economic life of the state ...”*  
California Government Code §19230(a).

Plaintiff SHONNA COUNTER (hereinafter referred to as "Plaintiff") complains of ASH HOP II INC., a California corporation dba IHOP; ANDREW ENTERPRISES, LLC, a Delaware limited liability company; and DOES 1-10, (each, individually a "Defendant" and collectively "Defendants") and alleges as follows:

## I. PARTIES

1. Plaintiff SHONNA COUNTER is a California resident and a qualified physically disabled person. Plaintiff has Spinal Muscular Atrophy, a rare, recessive, progressive, degenerative neuromuscular disorder. This condition weakens her muscle strength significantly, limiting or impairing her ability to walk. She uses a powered wheelchair for mobility and independently drives an adapted vehicle which has a passenger side ramp. Ms. Counter prides herself on her independence and on empowering other disabled people to be independent. Plaintiff is a member of a protected class of individuals guaranteed rights under state and federal law.

2. Defendants ASH HOP II INC., ANDREW ENTERPRISES, LLC, and DOES 1-10 are and were the owners, operators, lessors and/or lessees of the subject business, property, and facility at all times relevant in this Complaint.

3. Plaintiff does not know the true names of Defendants, their business capacities, their ownership connection to the property and business, or their relative responsibilities in causing the access violations herein complained of, and

1 alleges a joint venture and common enterprise by all such Defendants. Plaintiff is  
2 informed and believes that each of the Defendants herein, including DOES 1  
3 through 10, inclusive, is responsible in some capacity for the events herein alleged,  
4 or is a necessary party for obtaining appropriate relief. Plaintiff will seek leave to  
5 amend when the true names, capacities, connections, and responsibilities of the  
6 Defendants and Does 1 through 10, inclusive, are ascertained.

7 4. Defendants own and owned the property located at 2912 S. Sepulveda  
8 Blvd., Los Angeles, CA 90064 (“Subject Property”) at all relevant times.

9 5. Defendants operate and operated a restaurant doing business as IHOP  
10 (“restaurant”), located at the Subject Property, at all relevant times.

11 6. Plaintiff alleges that the Defendants have been and are the owners,  
12 franchisees, lessees, general partners, limited partners, agents, trustees, employees,  
13 subsidiaries, partner companies and/or joint ventures of each of the other  
14 Defendants, and performed all acts and omissions stated herein within the course  
15 and scope of such relationships causing the damages complained of herein.

## 16 **II. JURISDICTION AND VENUE**

17 7. This Court has subject matter jurisdiction over this action pursuant to  
18 28 U.S.C. §1331 and §1343(a)(3) and (a)(4) for violations of the Americans with  
19 Disabilities Act of 1990, U.S.C. §12101, *et seq.*

20 8. Pursuant to supplemental jurisdiction, an attendant and related cause  
21 of action, arising out of the same nucleus of operative facts and arising out of the  
22 same transactions, is also brought under California’s Unruh Civil Rights Act,  
23 which expressly incorporates the Americans with Disabilities Act.

24 9. Venue is proper in this court pursuant to 28 U.S.C. U.S.C. §1331(b)  
25 and is founded on the fact that the real property which is the subject of this action  
26 is located in this district and that Plaintiff’s causes of action arose in this district.

## 27 **III. FACTS**

28 10. Plaintiff uses a wheelchair for mobility.

1       11. Defendants' business is open to the public, a place of public  
 2 accommodation, and a business establishment.

3       12. Plaintiff has patronized the restaurant many times to eat and connect  
 4 with friends as it is close to her home. The receipt she received for one of her  
 5 visits, on September 9, 2023, is shown in the photo below.



13. Unfortunately, during Plaintiff's visits, Defendants did not offer persons with disabilities equivalent facilities, privileges, advantages, and accommodations offered to other persons.

14. Plaintiff encountered barriers that interfered with and denied Plaintiff the ability to use and enjoy the goods, services, privileges, advantages, and accommodations offered by Defendants at the Subject Property.

15. These barriers violate one or more standards of the Americans with Disabilities Act ("2010 ADA") and/or the California Building Codes ("2022 CBC").

1       16. Parking for patrons visiting the Subject Property is among the  
2 facilities, privileges, advantages, and accommodations offered by Defendants.

3       17. According to the U.S. Department of Justice, “a public  
4 accommodation’s first priority should be to enable individuals with disabilities to  
5 physically enter its facility. This priority on ‘getting through the door’ recognizes  
6 that providing physical access to a facility from public sidewalks, public  
7 transportation, or parking is generally preferable to any alternative arrangements in  
8 terms of both business efficiency and the dignity of individuals with disabilities.”  
9 ADA Title III Technical Assistance Manual §III-4.4500.

10      18. When parking is provided, there must be at least one accessible  
11 parking space designated and marked for disabled persons. Where more than one  
12 parking facility is provided on a site, the number of accessible spaces provided on  
13 the site shall be calculated according to the number of spaces required for each  
14 parking facility. 2010 ADA §502 et seq.; 2010 ADA §208.2; 2022 CBC 11B-502  
15 et seq; 2022 CBC 11B-208.2.

16      19. However, there is no accessible parking for disabled persons at the  
17 Subject Property because there are insufficient accessible parking spaces  
18 designated for disabled persons and/or the existing ostensibly designated space or  
19 spaces are significantly noncompliant with the applicable ADA and CBC  
20 standards.

21      20. It appears there was once a designated accessible parking space and  
22 adjacent access aisle, but Defendants have failed to maintain the paint and it is now  
23 so badly deteriorated it cannot be clearly identified. There is no way to determine  
24 the actual dimensions of the space and whether the adjacent loading and unloading  
25 access aisle is the correct width for an accessible space. The International Access  
26 Symbol was so deteriorated it cannot be clearly identified. The “No Parking” was  
27 so deteriorated it cannot be clearly identified. ADA 2010 §502.3.3; ADA 2010  
28

1 §502.6; 2022 CBC 11B-502.3.3; 2022 CBC 11B 502.6; 28 C.F.R. §36.211(a);  
2 2022 CBC 11B-108.

3 21. The wheel stop is placed incorrectly so that Plaintiff could not pull  
4 fully into the parking space. 2022 CBC 11B-502.2.

5 22. The ground surface of the ostensibly designated accessible parking  
6 spaces and their access aisles is severely cracked, broken and uneven. ADA 2010  
7 §302; 2022 CBC 11B-302; 28 C.F.R. §36.211(a); 2022 CBC 11B-108.

8 23. There is no ADA compliant parking signage. ADA 2010 §502.6; 2022  
9 CBC 11B-502.6, 2022 CBC 11B-703.7.2.1.

10 24. There is no sign in a conspicuous place at the entrance to the facility,  
11 or immediately adjacent to on-site accessible parking and visible from each  
12 parking space, stating that vehicles parked in designated accessible spaces not  
13 displaying a disabled placard or license plate will be towed. 2022 CBC 11B-502.8.

14 25. There is no accessible path of travel from the parking area to the  
15 entrance of the store. There is a front approach to the pull side of a swinging  
16 entrance door which does not have enough clearance to the strike side of the door  
17 when the door is opened. The entrance to the door is narrowed due to a concrete  
18 support column located near the door. This makes it difficult for Plaintiff to enter  
19 the restaurant without someone holding the door open for her as she enters. 2010  
20 ADA §206; 2010 ADA §302; 2010 ADA §403; 2010 ADA §405; 2022 CBC 11B-  
21 206; 2022 CBC 11B-302; 2022 CBC 11B-403; 2022 CBC 11B-404; 28 C.F.R.  
22 §36.211(a); 2022 CBC 11B-108.

23 26. None of the indoor or outdoor tables are accessible to a person in a  
24 wheelchair. Where dining surfaces are provided for the consumption of food and  
25 drink, at least 5% of those must be accessible in each seating area. It is not  
26 sufficient that there be an accessible table in one seating area if other separate  
27 seating areas do not have an accessible table; such a scenario essentially relegates  
28 disabled patrons to a segregated area. There must be minimum dimensions for the

1 clearance under an accessible dining table so that the legs and toes of a person in a  
2 wheelchair can fit under the table. In particular, the required depth for toe  
3 clearance under an accessible table is a minimum of 17 inches. 2010 ADA §226.1;  
4 2010 ADA §306.2.3; 2010 ADA §902; 2022 CBC 11B-226.1; 11B-306.2.3; 11B-  
5 902.

6 27. Plaintiff was seated away from the general dining area near the staff  
7 work area, behind a wall, near the silverware rolling station. She was placed in the  
8 highest, most-traveled route from the back kitchen. Although they seated Plaintiff  
9 at this table, it was still not accessible. It has a center pedestal which prevented her  
10 from pulling in fully and left her blocking the path of travel. There were staff  
11 bumping into the back of her chair as they attempted to make their way to and  
12 from their workstations and the kitchen. Because Plaintiff was seated in this remote  
13 area of the restaurant, it was difficult for her to receive prompt service and get the  
14 attention of her server.

15 28. Due to the configuration of the tables and chairs in the restaurant,  
16 many of the paths of travel were less than 36 inches in width during plaintiff's  
17 visits. In fact, the paths of travel to the east dining room and toward the restroom  
18 of the restaurant narrowed to as little as 24 inches in width due to customers'  
19 dining chairs. The path of travel from the front door of the restaurant to this  
20 inaccessible table in the back was also blocked with "Wet Floor" signs even  
21 though the floor was completely dry at the time. ADA 2010 §402.2; ADA 2010  
22 §403.5.1; ADA 2010 §403.5.2; 2022 CBC 11B-402.2; 2022 CBC 11B-403.5.1;  
23 2022 CBC 11B-403.5.2

24 29. Where restrooms are provided, each restroom must be accessible.  
25 2010 ADA §213.2; 2022 CBC 11B-213.2.

26 30. The waitress directed Plaintiff to "the bigger" restroom, but the path  
27 seemed too narrow for her to get further back to access it. Neither restroom had a  
28 disabled symbol on the door, so she could not tell if the bathrooms were accessible

1 or not. Fearing she may get stuck in the narrow path of travel, Plaintiff chose to use  
2 the restroom she could safely access.

3 31. The paper towel dispenser in the west restroom was mounted so that  
4 its highest operable part was greater than 48 inches above the finish floor and  
5 inaccessible to wheelchair users. In fact, the paper towel dispenser was about 64  
6 inches high. 2010 ADA §606.1; 2022 CBC 11B-606.1; 2010 ADA §308; 2022  
7 CBC 11B-308.

8 32. The plumbing underneath the sink was not wrapped to protect against  
9 burning contact. 2010 ADA §606.5; 2022 CBC 11B-606.5.

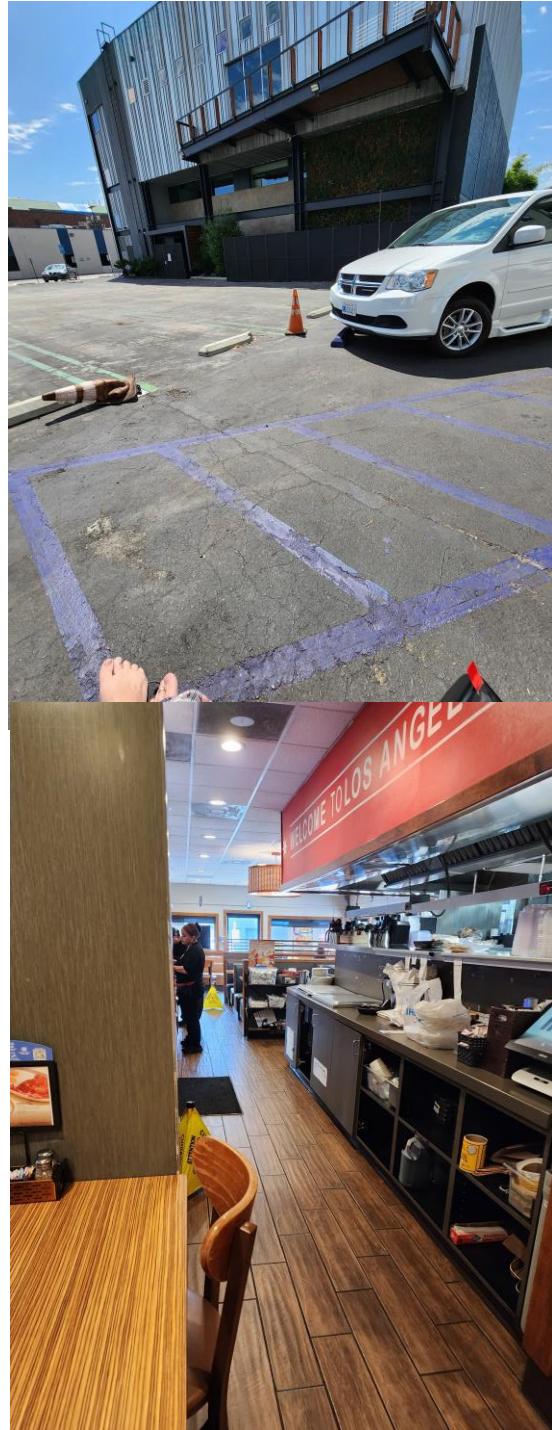
10 33. Additionally, the soap dispenser was mounted so that the sink  
11 obstructed the soap dispenser. As a result, the plaintiff could not reach the soap to  
12 wash her hands after using the restroom. 2010 ADA §606.1; 2022 CBC 11B-606.1;  
13 2010 ADA §308; 2022 CBC 11B-308.

14 34. Although the toilet area had two grab bars on adjacent or parallel  
15 walls for use by persons with disabilities who need to transfer to the toilet, it is  
16 impossible to use the grab bars. One of the grab bars has a changing table which is  
17 mounted right above it. The other grab bar, which is located behind the toilet tank,  
18 is mounted right on top of toilet tank. Neither of these grab bars leave the 1.5"  
19 finger clearance required by the ADA standards. 2010 ADA §604; 2010 ADA  
20 §609; CBC 11B-604; CBC 11B-609; 28 C.F.R. §36.211(a); 2022 CBC 11B-108.

21 35. Defendants also do not provide an accessible transaction counter for  
22 use with persons in wheelchairs like Plaintiff. Transaction counters for patrons  
23 visiting the store are among the facilities, privileges advantages, and  
24 accommodations offered by Defendants. When a business provides facilities such  
25 as a sales or transaction counter, it must provide an accessible sales or transaction  
26 counter. The restaurant has a sales counter where it handles its transactions with  
27 customers. However, Defendants failed to provide an accessible sales counter. The  
28 sales counter is more than 36 inches in height. There is no lowered, 36-inch portion

1 of the sales counter for use by persons in wheelchairs to conduct transactions.  
2 When Plaintiff pays her bill she is also forced to block the entrance of the  
3 restaurant. 2010 ADA §904.4, 2010 ADA §904.4.1; 2022 CBC 11B-904.4, 2022  
4 CBC 904.4.1

5 36. The photos below show one or more of these violations.





37. The barriers existed during Plaintiff's visit to the Subject Property. Plaintiff personally encountered these barriers.

38. These inaccessible conditions and barriers denied Plaintiff full and equal access and caused her difficulty, discomfort, and embarrassment. Because of the lack of compliant parking and compliant access aisle, Plaintiff was placed at risk of being blocked in by other vehicles and unable to get out of her vehicle or get back into it. She was also at greater risk of being hit by a car as she traveled from the disabled parking spot to the entrance of the restaurant. This path of travel is unprotected from traffic. Because of the severely cracked and broken ground surface, Plaintiff had more difficulty traversing the ground and was at risk of getting stuck in her wheelchair or tipping over on her way to and from the entrance of the restaurant. She was also embarrassed to have her wheelchair block other customers from entering or exiting the restaurant. Because of the lack of accessible seating, Plaintiff was blocking the path of travel to service areas, did not feel properly seated at a table as other patrons would, could not comfortably reach her

1 meal, and risked dropping or spilling food onto her lap as she ate. She also suffered  
2 delayed service as she could not easily make eye contact or easily communicate  
3 with her server. Plaintiff also suffered the disruption of her meal by being jarred  
4 each time staff and patrons bumped into her chair. This denied Plaintiff her dignity  
5 and made her feel like she was a piece of furniture placed in an inconvenient  
6 location. Because of the lack of a compliant bathroom Plaintiff was at greater risk  
7 of falling while transferring to and from the toilet, risked a burn from unwrapped  
8 pipes, and was denied the ability to wash and dry her hands after using the  
9 restroom.

10 39. These barriers denied Plaintiff full and equal access due to her  
11 disability because, *inter alia*, they caused Plaintiff anxiety, difficulty, discomfort,  
12 and embarrassment which patrons who do not use a wheelchair for mobility do not  
13 suffer when they access the Subject Property.

14 40. Plaintiff is currently deterred from returning because of the  
15 knowledge of the barriers to equal access that relate to Plaintiff's disabilities which  
16 continue to exist at Defendants' public accommodation facilities. Plaintiff intends  
17 to continue to return regularly to the Subject Property to eat meals, after the  
18 accessibility barriers alleged herein have been removed.

19 41. Plaintiff alleges that Defendants knew that the barriers prevented  
20 equal access. Plaintiff further alleges that Defendants had actual or constructive  
21 knowledge that the architectural barriers prevented equal access, and that the  
22 noncompliance with the Americans with Disabilities Act and Title 24 of the  
23 California Building Code regarding accessible features was intentional.

24 42. Defendants have obstructed or failed to maintain, in working and  
25 useable conditions, those features necessary to provide ready access to persons  
26 with disabilities. "A public accommodation shall maintain in operable working  
27 condition those features of facilities and equipment that are required to be readily

1 accessible to and usable by persons with disabilities.” 28 C.F.R. §36.211(a); 2022  
2 CBC 11B-108.

3       43. The State of California Department of General Servicers, Division of  
4 the State Architect (DSA) provides commentary to 2022 CBC 11B-108 as follows:

5       Features for accessibility must be permanently functional, unobstructed  
6 and may not be removed. It is not sufficient to provide features such as  
7 accessible routes, parking, elevators, ramps or signage if those features  
8 are not maintained in a manner that enables individuals with disabilities  
to use them.

9 DSA, 2019 California Access Compliance Advisory Reference Manual, p.84.

10       44. Defendants have the financial resources to remove these barriers  
11 without much expense or difficulty in order to make their property more accessible  
12 to their mobility impaired customers. The United States Department of Justice has  
13 identified that these types of barriers are readily achievable to remove.

14       45. To date, Defendants refuse to remove these barriers, in violation of  
15 the law, willfully depriving disabled persons including Plaintiff of important civil  
16 rights.

17       46. On information and belief, Plaintiff alleges that the Defendants’  
18 failure to remove these barriers was intentional because the barriers are logical and  
19 obvious. During all relevant times Defendants had authority, control, and dominion  
20 over these conditions and therefore the absence of accessible facilities was not a  
21 mishap, but rather an intentional act.

22       47. The barriers to access are listed above without prejudice to Plaintiff  
23 citing additional barriers to equal access by an amended complaint after inspection  
24 by Plaintiff’s Certified Access Specialist (CASP). *Oliver v. Ralphs Grocery Co.*,  
25 654 F.3d 903 (9th Cir. 2011); *Doran v. 7-Eleven, Inc.*, 524 F.3d 1034 (9th Cir.  
26 2008); *Chapman v. Pier One Imports (USA), Inc.*, 631 F.3d 939 (9th Cir. 2011).  
27 All of these barriers to access render the premises inaccessible to physically  
28 disabled persons who are mobility impaired, such as Plaintiff, are barriers Plaintiff

1 may encounter when she returns to the premises. All public accommodations must  
2 be brought into compliance with all applicable federal and state accessibility  
3 requirements.

4 **FIRST CAUSE OF ACTION**

5 Violation of the Americans With Disabilities Act of 1990

6 (42 U.S.C. §12101, *et seq.*)

7 (Against All Defendants)

8 48. Plaintiff alleges and incorporates by reference, as if fully set forth  
9 again herein, each and every allegation contained in all prior paragraphs of this  
10 complaint.

11 49. More than thirty years ago, the 101st United States Congress found  
12 that although “physical or mental disabilities in no way diminish a person’s right to  
13 fully participate in all aspects of society, yet many people with physical or mental  
14 disabilities have been precluded from doing so because of discrimination...in such  
15 critical areas as employment, housing, public accommodations, education,  
16 transportation, communication, recreation, institutionalization, health services,  
17 voting, and access to public services.” 42 U.S.C. §12101(a).

18 50. In 1990 Congress also found that “the Nation’s proper goals regarding  
19 individuals with disabilities are to assure equality of opportunity, full participation,  
20 independent living, and economic self-sufficiency for such individuals,” but that  
21 “the continuing existence of unfair and unnecessary discrimination and prejudice  
22 denies people with disabilities the opportunity to compete on an equal basis and to  
23 pursue those opportunities for which our free society is justifiably famous.” 42  
24 U.S.C. §12101(a).

25 51. In passing the Americans with Disabilities Act of 1990, which was  
26 signed into law by President George H. W. Bush on July 26, 1990 (hereinafter the  
27 “ADA”), Congress stated as its purpose:

28 “It is the purpose of this Act

1 (1) to provide a clear and comprehensive national mandate for the  
2 elimination of discrimination against individuals with disabilities;

3 (2) to provide clear, strong, consistent, enforceable standards  
4 addressing discrimination against individuals with disabilities;

5 (3) to ensure that the Federal Government plays a central role in  
6 enforcing the standards established in this Act on behalf of individuals  
7 with disabilities; and

8 (4) to invoke the sweep of congressional authority, including the power  
9 to enforce the fourteenth amendment and to regulate commerce, in  
10 order to address the major areas of discrimination faced day to-day by  
11 people with disabilities.”

12 42 USC §12101(b).

13 52. As part of the ADA, Congress passed “Title III – Public  
14 Accommodations and Services Operated by Private Entities” (42 U.S.C. §12181 *et*  
15 *seq.*). Title III of the ADA prohibits discrimination against any person “on the  
16 basis of disability in the full and equal enjoyment of the goods, services, facilities,  
17 privileges, advantages, or accommodations of any place of public accommodation  
18 by any person who owns, leases (or leases to), or operates a place of public  
19 accommodation.” 42 U.S.C. §12182(a).

20 53. The specific prohibitions against discrimination include, *inter alia*, the  
21 following:

22 • 42 U.S.C. §12182(b)(1)(A)(ii): “Participation in Unequal Benefit. - It  
23 shall be discriminatory to afford an individual or class of individuals,  
24 on the basis of a disability or disabilities of such individual or class,  
25 directly, or through contractual, licensing, or other arrangements, with  
26 the opportunity to participate in or benefit from a good, service, facility,  
afforded to other individuals.”

- 1     • 42 U.S.C. §12182(b)(2)(A)(ii): “a failure to make reasonable  
2     modifications in policies, practices, or procedures when such  
3     modifications are necessary to afford such goods, services, facilities,  
4     privileges, advantages, or accommodations to individuals with  
   disabilities...;”
- 5     • 42 U.S.C. §12182(b)(2)(A)(iii): “a failure to take such steps as may be  
6     necessary to ensure that no individual with a disability is excluded,  
7     denied service, segregated, or otherwise treated differently than other  
   individuals because of the absence of auxiliary aids and services...;”
- 8     • 42 U.S.C. §12182(b)(2)(A)(iv): “a failure to remove architectural  
9     barriers, and communication barriers that are structural in nature, in  
10    existing facilities... where such removal is readily achievable;”
- 11    • 42 U.S.C. §12182(b)(2)(A)(v): “where an entity can demonstrate that  
12    the removal of a barrier under clause (iv) is not readily achievable, a  
13    failure to make such goods, services, facilities, privileges, advantages,  
14    or accommodations available through alternative methods if such  
   methods are readily achievable.”

15  
16    54. Plaintiff is a qualified individual with a disability as defined in the  
17    Rehabilitation Act and in the Americans with Disabilities Act of 1990.

18    55. The acts and omissions of Defendants set forth herein were in  
19    violation of Plaintiff's rights under the ADA and the regulations promulgated  
20    thereunder, 28 C.F.R. Part 36 *et seq.*

21    56. The removal of each of the physical and policy barriers complained of  
22    by Plaintiff as hereinabove alleged, were at all times herein mentioned “readily  
23    achievable” under the standards of §12181 and §12182 of the ADA. Removal of  
24    each and every one of the architectural and/or policy barriers complained of herein  
25    was already required under California law. Further, on information and belief,  
26    alterations, structural repairs or additions since January 26, 1993, have also  
27    independently triggered requirements for removal of barriers to access for disabled  
28    persons per §12183 of the ADA. In the event that removal of any barrier is found

to be “not readily achievable,” Defendants still violated the ADA, per §12182(b)(2)(A)(v) by failing to provide all goods, services, privileges, advantages and accommodations through alternative methods that were “readily achievable.”

57. On information and belief, as of the date of Plaintiff's encounter at the premises and as of the filing of this Complaint, Defendants' actions, policies, and physical premises have denied and continue to deny full and equal access to Plaintiff and to other mobility disabled persons in other respects, which violate Plaintiff's right to full and equal access and which discriminate against Plaintiff on the basis of her disabilities, thus wrongfully denying to Plaintiff the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations, in violation of 42 U.S.C. §12182 and §12183 of the ADA.

58. Defendants' actions continue to deny Plaintiff's rights to full and equal access and discriminated and continue to discriminate against her on the basis of her disabilities, thus wrongfully denying to Plaintiff the full and equal enjoyment of Defendants' goods, services, facilities, privileges, advantages and accommodations, in violation of the ADA, 42 U.S.C. §12182.

59. Further, each and every violation of the Americans with Disabilities Act of 1990 also constitutes a separate and distinct violation of California Civil Code §51(f), §52, §54(c) and §54.1(d), thus independently justifying an award of damages and injunctive relief pursuant to California law, including but not limited to Civil Code §54.3 and §55.

## **SECOND CAUSE OF ACTION**

## Violation of the Unruh Civil Rights Act

(California Civil Code §51, *et seq.*)

(Against All Defendants)

60. Plaintiff alleges and incorporates by reference, as if fully set forth again herein, each and every allegation contained in all prior paragraphs of this complaint.

1       61. California Civil Code §51 provides that physically disabled persons  
2 are free and equal citizens of the state, regardless of their medical condition or  
3 disability:

4       All persons within the jurisdiction of this state are free and equal, and  
5 no matter what their sex, race, color, religion, ancestry, national origin,  
**6 disability, or medical condition** are entitled to full and equal  
7 accommodations, advantages, facilities, privileges, or services in all  
business establishments of every kind whatsoever.

8 California Civil Code §51(b) (emphasis added).

9       62. California Civil Code §51.5 also states, in part: “No business,  
10 establishment of any kind whatsoever shall discriminate against...any person in  
11 this state on account” of their disability.

12       63. California Civil Code §51(f) specifically incorporates (by reference)  
13 an individual’s rights under the ADA into the Unruh Act.

14       64. California Civil Code §52 provides that the discrimination by  
15 Defendants against Plaintiff on the basis of her disability constitutes a violation of  
16 the general antidiscrimination provisions of §51 and §52.

17       65. Each of Defendants’ discriminatory acts or omissions constitutes a  
18 separate and distinct violation of California Civil Code §52, which provides that:

19       Whoever denies, aids or incites a denial, or makes any discrimination  
20 or distinction contrary to section 51, 51.5, or 51.6 is liable for each and  
21 every offense for the actual damages, and any amount that may be  
22 determined by a jury, or a court sitting without a jury, up to a maximum  
23 of three times the amount of actual damage but in no case less than four  
24 thousand dollars (\$4,000), and any attorney’s fees that may be  
determined by the court in addition thereto, suffered by any person  
denied the rights provided in Section 51, 51.5, or 51.6.

25       66. Any violation of the Americans with Disabilities Act of 1990  
26 constitutes a violation of California Civil Code §51(f), thus independently  
27 justifying an award of damages and injunctive relief pursuant to California law,  
28 including Civil Code §52. Per Civil Code §51(f), “A violation of the right of any

1 individual under the Americans with Disabilities Act of 1990 (Public Law 101-  
2 336) shall also constitute a violation of this section."

3 67. The actions and omissions of Defendants as herein alleged constitute a  
4 denial of access to and use of the described public facilities by physically disabled  
5 persons within the meaning of California Civil Code §51 and §52.

6 68. The discriminatory denial of equal access to and use of the described  
7 public facilities caused Plaintiff difficulty, discomfort, and embarrassment.

8 69. As a proximate result of Defendants' action and omissions,  
9 Defendants have discriminated against Plaintiff in violation of Civil Code §51 and  
10 §52, and are responsible for statutory, compensatory and actual damages to  
11 Plaintiff, according to proof.

### 12 **PRAYER FOR RELIEF**

13 Plaintiff has no adequate remedy at law to redress the wrongs suffered as set  
14 forth in this Complaint. Plaintiff has suffered and will continue to suffer  
15 irreparable injury as a result of the unlawful acts, omissions, policies, and  
16 practices of the Defendants as alleged herein, unless Plaintiff is granted the relief  
17 requested. Plaintiff and Defendants have an actual controversy and opposing legal  
18 positions as to Defendants' violations of the laws of the United States and the  
19 State of California.

20 The need for relief is critical because the civil rights at issue are paramount  
21 under the laws of the United States of America and the State of California.

22 WHEREFORE, Plaintiff prays judgment against Defendants, and each of  
23 them, as follows:

24 1. Issue a preliminary and permanent injunction directing  
25 Defendants as current owners, operators, lessors, and/or lessees of the  
26 Subject Property and premises to modify the above described property,  
27 premises, policies and related facilities to provide full and equal access  
28 to all persons, including persons with physical disabilities; and issue a

1 preliminary and permanent injunction pursuant to ADA §12188(a) and  
2 state law directing Defendants to provide facilities and services usable  
3 by Plaintiff and similarly situated persons with disabilities, and which  
4 provide full and equal access, as required by law, and to maintain such  
5 accessible facilities once they are provided; to cease any discriminatory  
6 policies; and to train Defendants' employees and agents how to  
7 recognize disabled persons and accommodate their rights and needs;

8 2. Retain jurisdiction over the Defendants until such time as  
9 the Court is satisfied that Defendants' unlawful policies, practices, acts  
10 and omissions, and maintenance of physically inaccessible public  
11 facilities and policies as complained of herein no longer occur, and  
12 cannot recur;

13 3. Award to Plaintiff all appropriate damages, including but  
14 not limited to actual and statutory damages according to proof;

15 4. Award to Plaintiff all reasonable attorney fees, litigation  
16 expenses, and costs of this proceeding pursuant to 42 U.S.C §12205 and  
17 California Civil Code §52; and

18 5. Grant such other and further relief as this Court may deem  
19 just and proper.

20  
21 DATED: November 8, 2024

**VALENTI LAW APC**

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23 By: /s/ Matthew D. Valenti  
24 Matthew D. Valenti  
25 Attorney for Plaintiff  
26 Shonna Counter  
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1 **JURY DEMAND**

2 Plaintiff hereby demands a trial by jury for all claims and issues for which a  
3 jury is permitted.

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6 DATED: November 8, 2024

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8 **VALENTI LAW APC**

9 By: /s/ Matthew D. Valenti

10 Matthew D. Valenti  
11 Attorney for Plaintiff  
12 Shonna Counter

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